



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

C-533-864

Certain Corrosion-Resistant Steel Products from India: Notice of Court Decision Not in Harmony with the Affirmative Final Determination and Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On October 23, 2018, the United States Court of International Trade (CIT or the Court) sustained the final results of redetermination pertaining to the countervailing duty (CVD) investigation of certain corrosion-resistant steel products (CORE) from India for the period of investigation from January 1, 2014, through December 31, 2014. The Department of Commerce (Commerce) is notifying the public that the final judgment in this case is not in harmony with the *Final Determination and Order* of the investigation and that Commerce is amending the *Final Determination and Order* with respect to the CVD cash deposit rate assigned to JSW Steel Limited and JSW Steel Coated Products Limited (collectively JSW).

DATES: This order is effective November 2, 2018.

FOR FURTHER INFORMATION CONTACT: Christian Llinas, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-4877.

SUPPLEMENTARY INFORMATION:

Background

On June 2, 2016, Commerce published its *Final Determination* in the CVD investigation

of CORE from India.<sup>1</sup> Commerce issued an *Amended Final Determination* explaining its critical circumstances analysis, on June 14, 2016.<sup>2</sup> Commerce published the countervailing duty order resulting from the investigation on July 25, 2016.<sup>3</sup>

On May 9, 2018, the CIT remanded the *Final Determination* to Commerce.<sup>4</sup> Specifically, the CIT remanded the *Final Determination* directing Commerce to recalculate JSW's CVD rate without regard to JSW Steel (Salav) Limited (Salav), a cross-owned input supplier.<sup>5</sup> On August 7, 2018, Commerce issued its final results of redetermination pursuant to remand in accordance with the CIT's order.<sup>6</sup> On remand, Commerce, under respectful protest,<sup>7</sup> recalculated JSW's CVD rate without regard to Salav, and also recalculated the "all-others" rate. On October 23, 2018, the CIT sustained Commerce's *Final Redetermination*.<sup>8</sup> The effective date of this notice is November 2, 2018.

#### Timken Notice

In its decision in *Timken*,<sup>9</sup> as clarified by *Diamond Sawblades*,<sup>10</sup> the Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not "in harmony"

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<sup>1</sup> See *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from India: Final Affirmative Determination*, 81 FR 35323 (June 2, 2016) (*Final Determination*) and accompanying Issues and Decision Memorandum (IDM).

<sup>2</sup> See *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from India: Notice of Correction to Final Affirmative Determination; Negative Determination of Critical Circumstances*, 81 FR 38671 (June 14, 2016) (*Amended Final Determination*).

<sup>3</sup> See *Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea and the People's Republic of China: Countervailing Duty Order*, 81 FR 48387 (July 25, 2016) (*Order*).

<sup>4</sup> *JSW Steel Ltd. and JSW Steel Coated Products Ltd. v. United States*, Court No. 16-00165, Slip Op. 18-51 (CIT May 9, 2018).

<sup>5</sup> *Id.* at 8-9.

<sup>6</sup> See *Final Results of Redetermination Pursuant to Court Remand JSW Steel Limited and JSW Steel Coated Products Limited v. United States*, Slip Op. 18-51 (CIT May 9, 2018), dated August 7, 2018 (*Final Redetermination*).

<sup>7</sup> See *Viraj Group, Ltd. v. United States*, 343 F.3d 1371 (Fed. Cir. 2003).

<sup>8</sup> See *JSW Steel Ltd. and JSW Steel Coated Products Ltd. v. United States*, Court No. 16-00165, Slip Op. 18-147 (CIT Oct. 23, 2018).

<sup>9</sup> See *Timken Co., v United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>10</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision.<sup>11</sup> The CIT’s October 23, 2018, final judgment affirming the *Final Redetermination* constitutes a final decision of the Court that is not in harmony with Commerce’s *Final Determination and Order*. This notice is published in fulfillment of the publication requirements of *Timken* and section 516A of the Act.

#### Amended Final Determination

Because there is now a final court decision, Commerce is amending its *Final Determination and Order*. Commerce finds that the revised countervailable subsidy rate for JSW and the revised “all-others” rate are as follows:

Producer/Exporter	Net Subsidy Rate (Percent)
JSW Steel Limited and JSW Steel Coated Products Limited	4.24
“All-others” rate	6.12

#### Cash Deposit Requirements

Because JSW does not have a superseding cash deposit rate, *i.e.*, there have been no final results published in subsequent administrative reviews for JSW, Commerce will issue revised cash deposit instructions to CBP., Commerce will also instruct CBP to collect cash deposits for companies covered by the “all-others” cash deposit rate according to the table above.

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<sup>11</sup> See Sections 516A(c) and (e) of the Act.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c)(1) and (e), 705(c)(1)(B), and 777(i)(1) of the Act.

Dated: November 1, 2018

James Maeder  
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations  
performing the duties of Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

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